

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1576V

ELIZABETH ESHELMAN, *on behalf of*
her minor child, A.E.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

UNPUBLISHED

Special Master Katherine E. Oler

Filed: August 5, 2021

Withdrawal of Petition; Order Concluding
Proceedings

Andrew D. Downing, Van Cott & Talamante, PLLC, for Petitioner.
Jeremy Fugate, U.S. Department of Justice, Washington, D.C., for Respondent.

ORDER CONCLUDING PROCEEDINGS¹

On November 12, 2020, Elizabeth Eshelman (“Petitioner”) filed a petition, on behalf of her minor child A.E., for compensation under the National Vaccine Injury Compensation Program,² alleging that A.E. suffered an adverse reaction to a Gardasil vaccination she received on November 7, 2018. Pet., ECF No. 1.

Because a decision had not been issued within the time specified in Vaccine Rule 10(b), a notice issued on July 12, 2021, advising that “the petitioner may withdraw the petition under

¹ This Order will be posted on the Court of Federal Claims’ website. **This means the Order will be available to anyone with access to the internet.** As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the order’s inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has fourteen days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). If, upon review, I agree that the identified materials fit within this definition, I will redact such material from public access. Otherwise, the Order in its present form will be available. *Id.*

² The Vaccine Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended at 42 U.S.C. §§ 300aa-10 through 34 (2012) (“Vaccine Act” or “the Act”). Individual section references hereafter will be to § 300aa of the Act (but will omit that statutory prefix).

section 300-aa-21(b) of this title or the petitioner may choose under section 300aa-21(b) of this title to have the petition remain before the Special Master.” 42 U.S.C. § 300aa-12(g). On August 5, 2021, Petitioner filed a notice to withdraw her petition pursuant to 42 U.S.C. § 300aa-21(b).

In light of Petitioner’s election to withdraw the petition pursuant to 42 U.S.C. § 300aa-21(b) (promulgated as Vaccine Rule 10(d)), Petitioner’s request to withdraw the petition is **GRANTED**. Accordingly, this order hereby notifies the Clerk of Court that proceedings “on the merits” of this petition are now concluded, but no judgment “on the merits” should be entered by the Clerk’s office.

IT IS SO ORDERED.

s/ Katherine E. Oler
Katherine E. Oler
Special Master